

**DOCKETED**  
**08-AFC-8A**

TN # 2927

MAR. 18 2013

COMMITTEE MEETING  
BEFORE THE  
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the:	)	
	)	
Amended Application for Certification	)	Docket No.
for the Hydrogen Energy California	)	08-AFC-08A
Project	)	
_____	)	

CALIFORNIA ENERGY COMMISSION  
THIRD FLOOR CONFERENCE ROOM  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

THURSDAY, JANUARY 10, 2013

10:00 a.m.

Reported by:  
Ramona Cota  
Contract No. 170-09-002

COMMITTEE MEMBERS PRESENT

Karen Douglas, Presiding Member

Andrew McAllister, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Raoul Renaud, Hearing Officer

Galen Lemei, Advisor to Commissioner Douglas

Jennifer Nelson, Advisor to Commissioner Douglas

Patrick Saxon, Advisor to Commissioner McAllister

Eileen Allen, Commissioners' Technical Adviser for Facility  
Siting

CEC STAFF PRESENT

Lisa DeCarlo, Staff Counsel

Robert Worl, Project Manager

OFFICE OF THE PUBLIC ADVISER

Blake Roberts, Assistant Public Adviser

APPLICANT

Michael J. Carroll, Attorney (via WebEx)  
Latham & Watkins

Marisa Mascaro (via WebEx)  
Hydrogen Energy California

Dale Shileikis (via WebEx)  
URS Corporation

INTERVENORS

David Abell (via WebEx)  
Kern-Kaweah Chapter of the Sierra Club

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P R O C E E D I N G S

10:02 a.m.

HEARING OFFICER RENAUD: Good morning, this is Raoul Renaud, the Hearing Officer for the Hydrogen Energy California Project amended application for certification proceeding. It's Thursday, January 10, 2013, 10:02 a.m., and this is the Committee Meeting which was noticed to begin, take place today.

Present in the room are Presiding Member Commissioner Karen Douglas and representatives of staff, the Commissioners' technical advisor for siting, Eileen Allen, a representative from the public adviser's office, and I will ask if there are any parties on the phone who would like to introduce themselves, please.

MR. CARROLL: Yes, this is Mike Carroll with Latham & Watkins on behalf of the applicant.

HEARING OFFICER RENAUD: Thank you. Anyone else? Go ahead.

MR. ABELL: This is David Abell on behalf of intervenors, Sierra Club.

HEARING OFFICER RENAUD: Good morning, thank you. Anyone else?

MS. MASCARO: This is Marisa Mascaro with Hydrogen Energy California.

HEARING OFFICER RENAUD: Thank you. Any other

1 parties on the phone who could introduce themselves, please?

2 MR. SHILEIKIS: This is Dale Shileikis with URS,  
3 the applicant's environmental consultant.

4 HEARING OFFICER RENAUD: All right, thank you.  
5 Now, is there anyone else before I proceed here?

6 (Advisor Nelson joined the meeting.)

7 THE REPORTER: Mr. Renaud?

8 HEARING OFFICER RENAUD: Yes.

9 THE REPORTER: Could the Sierra Club  
10 representative spell his name?

11 HEARING OFFICER RENAUD: Yes. Sierra Club  
12 representative, David, would you spell your name for the  
13 court reporter, please.

14 MR. ABELL: The last name is A as in apple, B as  
15 in boy, E as in Eric, lady, lady.

16 THE REPORTER: Thank you.

17 HEARING OFFICER RENAUD: Thank you. All right.

18 As indicated in the notice, the primary purpose of  
19 today's meeting is for the Committee to have an opportunity  
20 to deliberate in closed session concerning matters that have  
21 been placed before it.

22 The agenda indicates that we would call the  
23 meeting to order and then ask for any party or public  
24 comment, on an optional basis, and then adjourn into closed  
25 session.

1           We have also scheduled a public status conference  
2 to take place next week on the 16th and that will be an open  
3 session for all parties and members of the public to  
4 participate.

5           So let's proceed then to public comment, public or  
6 party comment. Is there any party, first of all, who wishes  
7 to make a comment at this time?

8           MR. CARROLL: This is Mike Carroll with Latham &  
9 Watkins on behalf of the applicant.

10          HEARING OFFICER RENAUD: Yes.

11          MR. CARROLL: And we will reserve the bulk of our  
12 comments for the status conference next week but just for  
13 the record and for the Commission's consideration during  
14 their meeting today let me point out a couple of things.

15          We've received the staff's Status Report No. 4,  
16 which indicates a couple of substantive areas where they  
17 have outstanding concerns as being cultural resources and  
18 water supply. I would just like to state that we have been  
19 working diligently with the cultural resources staff, which  
20 we believe consistent with their practice on past projects,  
21 has asked for information significantly beyond what's  
22 required under CEQA and necessary for their analysis. But  
23 we are in the process of trying to reach some consensus on a  
24 compromise and I'm hopeful that we will be able to do that.  
25 We had a call over that with staff prior to the holidays and

1 we are in the process of putting together a response based  
2 on that call to the staff.

3 With respect to the water resources issue, and  
4 I've conveyed this to Mr. Worl and Ms. DeCarlo just prior to  
5 the holidays. We are frankly quite surprised at the fact  
6 that this issue is coming up at this point. The water  
7 supply for this project has not changed from the initial  
8 application that was submitted in May of 2009. There was  
9 extensive discussion and modeling work that was done with  
10 the water staff prior to submission of the revised  
11 application and frankly we had come to believe that issues  
12 or most of the issues related to water supply had been put  
13 to bed.

14 Of the 400-some-odd data requests that applicant  
15 has received since the amended application was submitted,  
16 not a single one of them related to water supply. And so we  
17 are shocked, frankly, that there appear to be some, at least  
18 on their face, major concerns related to the project's water  
19 supply. So again, we can get into that in more detail at  
20 the conference next week but we did want to raise that.

21 And then finally with respect to the schedule. I  
22 don't think we are that far apart from the staff, about a  
23 month, but we think it's an important month. And by that I  
24 mean that if you look at the schedule attached to our status  
25 report, our milestones are about a month earlier than the

1    respective milestones in the staff's recommended schedule.

2                   (Commissioner McAllister, Advisor Lemei  
3                   and Advisor Saxton joined the meeting.)

4                   MR. CARROLL:   So it's not a lot of additional time  
5   but it is an important month because the staff's proposed  
6   schedule starts to impede upon the financing process that is  
7   already underway for the project.

8                   And again, I'd be more than happy to get into the  
9   details of that but I just wanted to hit on those three  
10   points, which I suspect would be the three major points of  
11   discussion next week, subject to any other topics that the  
12   Committee wants to cover.

13                   HEARING OFFICER RENAUD:   Thank you.

14                   MR. CARROLL:   Thank you.

15                   HEARING OFFICER RENAUD:   Mr. Carroll, let me just  
16   take the opportunity to ask you a question then.   From your  
17   most recent status report that I have, which is December 19,  
18   applicant is indicating that the PSA should be published by  
19   January 25th and in the staff's new status report they are  
20   talking April.   But you just said you're about a month apart  
21   so can you clarify that for me?

22                   MR. CARROLL:   Sure, I will.   It's in our -- so  
23   you're referring to our Status Report No. 3 that was filed  
24   on December 19th.

25                   HEARING OFFICER RENAUD:   Yes.



1           MR. CARROLL: And at that point it was our view  
2 that the staff should have adhered to its most recently  
3 proposed schedule at that point, which had the PSA coming  
4 out in January. You know, we're realists. We realize that  
5 given that we are at January 9th today, that publication of  
6 the PSA according to that schedule is not feasible and so we  
7 acknowledge that the staff is requesting additional time.

8           And so if you look at our Status Report No. 4 that  
9 was filed yesterday what you'll see is that we are proposing  
10 that the PSA be issued no later than March 1. That's  
11 somewhat more aggressive than what the staff is proposing,  
12 but we think imminently achievable, given that we are only,  
13 you know, not quite in the middle of January yet. And our  
14 understanding is that the drafting of the PSA is well  
15 underway. We believe that the staff has everything they  
16 need to complete that process. And so we think while  
17 sitting here in the middle of January it would not be  
18 practical for us to insist on a PSA submitted by the end of  
19 January, we certainly think that it's reasonable for us to  
20 insist upon a PSA by March 1.

21           HEARING OFFICER RENAUD: All right, thank you. I  
22 think the confusion I had was that I haven't received your  
23 status report. But I imagine it's tied up in dockets and  
24 we'll receive it.

25           MR. CARROLL: Apologies. And we will -- we'll

1 forward that to you by email as soon as we drop off here so  
2 that you've got the benefit of that. It was filed yesterday  
3 by the deadline.

4 HEARING OFFICER RENAUD: Okay. Could you just for  
5 my information tell me about what time it was filed?

6 MR. CARROLL: Three o'clock.

7 HEARING OFFICER RENAUD: All right. Okay, thank  
8 you. Any other party wish to make a comment?

9 MS. DeCARLO: Lisa DeCarlo, Energy Commission  
10 staff counsel. I think that the bulk of our comments,  
11 obviously, will be next week where it's more appropriate to  
12 dive into these issues and we do look forward to really  
13 getting into the issues.

14 Obviously the one main scheduling concern that we  
15 have is issuance of the PDOC, which isn't likely to be  
16 received by the Energy Commission until the end of February  
17 or early March so that's really one of the most important  
18 drivers for our schedule. So we'll get into that into more  
19 detail but we look forward to discussing those next week.

20 HEARING OFFICER RENAUD: Thank you. All right,  
21 any other party wish to make a comment?

22 (No response).

23 HEARING OFFICER RENAUD: All right. Are there any  
24 members of the public out there who wish to make a comment?  
25 If you do just go ahead and speak.

1 (No response).

2 HEARING OFFICER RENAUD: All right, apparently  
3 not. So we will close out the public comment portion of the  
4 agenda and adjourn to closed session. I will return when we  
5 are done, which I anticipate will be between one and two  
6 hours from now, and report that the meeting is now  
7 adjourned. Thank you for your participation and we will see  
8 you or hear from you next week on the 16th.

9 MR. CARROLL: Mr. Renaud, this is Mike Carroll. I  
10 just forwarded you by an email the status report that was  
11 docketed yesterday so if you wanted to pull that up for your  
12 closed session you should have it momentarily.

13 HEARING OFFICER RENAUD: Yes, my phone just buzzed  
14 and there it is, thank you. All right.

15 MR. CARROLL: You're welcome.

16 HEARING OFFICER RENAUD: Thank you.

17 MR. WORL: One other quick question.

18 HEARING OFFICER RENAUD: Mr. Worl, go ahead.

19 MR. WORL: Just a procedural question.

20 HEARING OFFICER RENAUD: Sure.

21 MR. WORL: When you get ready to close out your  
22 closed session and then close the Committee Meeting would  
23 you like to have staff here in case you have additional  
24 questions?

25 HEARING OFFICER RENAUD: No, there won't be

1 anything of that nature.

2 MR. WORL: Okay, fine.

3 HEARING OFFICER RENAUD: Anything that's come up  
4 we will address at the status conference next week.

5 All right? Thank you all.

6 MR. CARROLL: Thank you.

7 (The Committee adjourned into  
8 closed session at 10:12 a.m.)

9 (The Committee reconvened from closed  
10 session at 11:53 a.m., had nothing to  
11 report and immediately adjourned.)

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## CERTIFICATE OF REPORTER

I, RAMONA COTA, a Certified Electronic Reporter and Transcriber, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Meeting; that I thereafter transcribed it.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of January, 2013.

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RAMONA COTA, CERT\*\*478